

The TCPA private right of action has proven to be an effective means of stopping or greatly reducing unsolicited fax advertisements sent to my medical office fax machine. Before I filed my lawsuits alleging violations of the TCPA, I used to receive multiple junk faxes every day. Now, I receive almost none. Filing several TCPA lawsuit against junk fax advertisers has resulted in my fax number being apparently placed on the "do not fax" list of every junk fax broadcaster in the nation. I am happy with the effectiveness of the TCPA in greatly reducing the junk fax problem which I used to experience daily.

I still receive junk fax advertisements touting penny stocks. I find that most of the corporations whose stock is touted do not know that their company is being advertised by means of unsolicited fax advertisements. It is obvious that these faxes are pushing a "pump and dump" stock scheme. The person who is profiting from this scheme is an entity which acquires a large block of the stock, then pumps it via fax advertisements, then dumps it as the fax recipients buy the stock through their stockbroker. The owner of the large block of stock (who is the advertiser in this case) is not identified in the fax, so there is no way to know how to serve him or it with a TCPA summons and complaint. The typical fax advertisement states only that the fax has been paid for by a "third party."

I recommend new rules for fax advertisements which require that the name, address, telephone number, and fax number all persons or other entities which pay for the fax advertisement be stated in the fax. I recommend that the same information be listed in the body of the fax advertisement for every "independent contractor" involved in the fax. So, if Company A hires Company B to be its "independent contractor" marketing advisor, and Company B hires Company C as an "independent contractor" to find an appropriate way to effectuate a marketing or advertising effort on behalf of Company A, and Company C hires Company D to be an "independent contractor" and to make the actual fax transmissions on behalf of Company A, then my proposed new rule would require that Companies A, B, C, and D all be identified in the body of the fax advertisement. I recommend that the FCC state explicit rules governing this chain of "independent contractors" and its effect on the TCPA (i.e. state whether Company A is liable under the TCPA). I have had a recent case in which such a chain of "independent contractors" served to immunize the advertiser (Company A) from liability because the advertiser's attorney got the trial court to dismiss the case on the grounds that it was not responsible for the fax advertisements, that its "independent contractors" might be, but that it had no knowledge that a fax was going to be sent to me personally.

In summary, I do not believe that there is any need for a national database of "do not fax" numbers because the TCPA is so effective in relieving the junk fax problem.

The TCPA has proven to be completely ineffective in eliminating junk voice telemarketing calls to my home. I



have never had a telemarketer tell me his or her name without being asked, and when I ask the name I am given only a first name. The telemarketers usually employ call blocking, so my caller ID is ineffective in keeping track of who calls. Since the TCPA gives telemarketers the right to make the first call with impunity, and since it is so difficult to determine whether or not any call received is a first call or a second call (in violation of my "place me on your no call list" instructions during the first call), I strongly believe that a national "do not call" list of voice telephone numbers is needed. I personally do not want to receive any telemarketing voice calls at home, not even the first call. A national "do not call" list is the only reasonable way I can see to solve the problem of such frequent nuisance voice telemarketing calls to my home. I recommend that the FCC set up a web site which allows the public to insert their telephone numbers via the internet, thereby creating such a national "do not call" list with minimal expense. The expenses associated with maintenance of the list could be paid for by charging telemarketers a fee to access the list, and that the list be updated monthly or quarterly so tht the telemarketers will know when to obtain a new list.

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